

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STERIL-AIRE, INC., a Nevada
corporation

Plaintiffs,

vs.

FIRST LIGHT TECHNOLOGIES,
INC., a Vermont corporation; and
UV RESOURCES, LLC, a
California corporation; and
FORREST B. FENCL, a California
individual,

Defendants.

FIRST LIGHT TECHNOLOGIES,
INC., a Vermont corporation,

Counterclaimant,

vs.

STERIL-AIRE, INC., a Nevada
corporation,

Counter-Defendant.

Case No. SACV08-00682 AHS (ANx)

**ORDER RE EVIDENTIARY
OBJECTIONS TO DECLARATION
OF ROGER D. MCWILLIAMS**

DATE: July 27, 2009

TIME: 10:00 a.m.

CTRM: 10A

Hon. Alicemarie H. Stotler

Objection:

Dr. McWilliams' expert report should be disregarded. It does not assist the Court in deciding any factual matter before the Court.

Expert testimony is admissible only if it will assist the trier of fact to understand the evidence or to determine a fact in issue. Fed. Rule Evid. (F.R.E.) 702. In the summary judgment context, a district court need not consider expert testimony that is not reliable or not helpful to resolving the issues raised on summary judgment. *Stilwell v. Smith & Nephew, Inc.*, 482 F.3d 1187, 1192 (9th Cir. 2007). "Expert testimony which does not relate to any issue in the case is not relevant, and ergo, non-helpful." *Id.* (internal quotations omitted).

Dr. McWilliams' expert report purports to set forth his analysis of spectral characteristics of tested light bulbs. This analysis has no relevance to any issue currently before the Court and should therefore be disregarded. F.R.E. 401-403; *Stilwell*, 482 F.3d at 1192.

Ruling:

☐ Sustained

☐ Sustained as follows:

X Overruled

1 In addition, Dr. McWilliams
2 cannot properly authenticate the
3 samples he tested. Dr. McWilliams
4 does not have personal knowledge
5 regarding who manufactured the
6 samples he tested and neither Plaintiff
7 and Counterdefendant Steril-Aire, Inc.
8 (“S-A”) nor Dr. McWilliams provided
9 any documentation that would establish
10 a chain of custody for the samples
11 tested. Dr. McWilliams’ testimony
12 should therefore be excluded under
13 Federal Rule of Evidence 702 and
14 *Daubert*, which require expert
15 testimony to be based on sufficient
16 facts or data, the product of reliable
17 principles and methods, and applied
18 reliably to the facts of
19 the case. Fed. R. Evid. 702; *Daubert v.*
20 *Merrell Dow Pharm., Inc.*, 509 U.S.
21 579 (1993).

22
23 IT IS SO ORDERED.

24
25 DATED: August 11, 2009.

ALICEMARIE H. STOTLER
Hon. Alicemarie H. Stotler
U.S. District Court Judge